

# SSRO

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# Contract amendments: guidance on redetermining the price of a QDC or QSC

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# 1. Introduction

## SSRO guidance on contract pricing amendments

- 1.1 The parties to a qualifying defence contract (QDC) or qualifying sub-contract (QSC) may choose to amend that contract in a way that affects the price of the contract. Section 15 of the Defence Reform Act 2014 (“the Act”) and the Schedule to the Single Source Contract Regulations (“the Regulations”) set out how the price payable under a QDC or QSC (or a component of such a contract) must be redetermined in these circumstances. Such an amendment is defined in the Regulations as a “pricing amendment”. Pricing amendments will often not involve redetermining the entire contract price and this guidance makes clear where a pricing amendment is related to part, or all, of the contract price.
- 1.2 This document supplements the SSRO’s existing pricing and reporting guidance. The SSRO issues the following guidance which may also apply when making a pricing amendment to your contract or component:
  - [Guidance on the baseline profit rate and its adjustment](#)
  - [Guidance on allowable costs](#)
  - [Guidance on the alternative pricing of contracts](#)
  - [Guidance on preparation and submission of contract reports](#)
- 1.3 This guidance is to help the parties to QDCs and QSCs meet their legal obligations under the Act and Regulations and aims to ensure that value for money is obtained in government expenditure on qualifying contracts and that contractors are paid a fair and reasonable price under those contracts. It is a legal requirement to have regard to the SSRO’s statutory guidance when:
  - determining the allowable costs under a QDC or QSC under section 20 of the Act;
  - determining the contract profit rate for a QDC or QSC in accordance with section 17(2) of the Act;
  - preparing contract reports on QDCs and QSCs under section 24 of the Act; and
  - preparing supplier reports under section 25 of the Act.

## How to use this guidance

- 1.4 The Schedule to the Regulations describes various pricing amendment scenarios and provides the method by which the price must be redetermined for each scenario. The first step in using this guidance is to identify the scenario(s) which applies to your proposed pricing amendment. The quick start guide published alongside this guidance can help direct users to the relevant sections for each pricing amendment scenario. The flowcharts with links to the specific guidance section applicable to your scenario can also be found on pages 3-4

- 1.5 This guidance is intended to be read alongside the other SSRO guidance listed above which may also apply when redetermining the price of your contract or component, and to associated reporting requirements. The parts of the guidance in this document and other SSRO guidance documents that is relevant will depend on the pricing method of the contract/component proposed to be amended and the type of pricing amendment you are proposing to make. For example, if you are proposing to amend a contractual requirement, you need to refer to the relevant section in this document, as well as the guidance on allowable costs and the guidance on the baseline profit rate and its adjustment. Links to relevant guidance documents have been provided throughout the guidance to assist users in navigating between guidance documents. In all cases, users should ensure they are using the latest versions of any relevant guidance. These can all be found on the [SSRO website](#).
- 1.6 Readers are encouraged to familiarise themselves with the key terms and definitions at the end of this section. Section 2 contains principles common to all pricing amendments and should be read by all users. Sections 3 to 6 contain specific guidance on the methods set out by the Regulations to amend qualifying contracts or components of such contracts. Readers of this guidance only need to refer to the section(s) relevant to the pricing method used in their contract or component and the type of pricing amendment they propose to make. Where additional support is required to identify the relevant sections, a quick start guide has been published alongside this guidance. Section 9 contains key questions and answers users may find useful.

### Does this guidance apply to my contract?

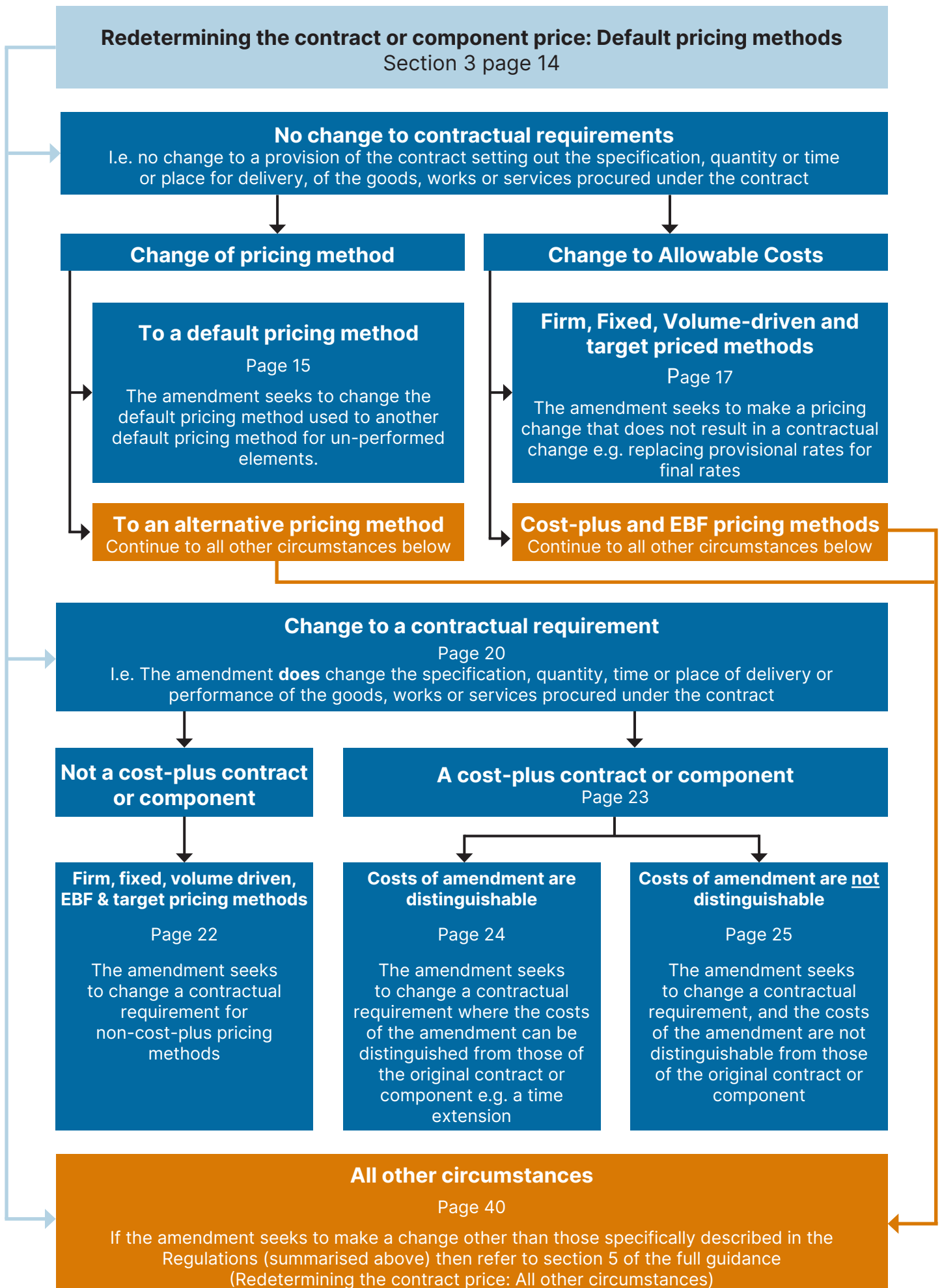
- 1.7 The Schedule to the Regulations and this guidance applies where the parties to a QDC or QSC propose to amend the contract in a way that would affect the original contract price. An amendment means a change to the contractual terms which alters the parties' rights or obligations as agreed when the contract was entered into (or as last amended). This includes changes such as those which alter the scope of work, the basis on which the contract price is determined, or the allocation of risk between the parties.
- 1.8 Changes to the contract price may not always be the result of a contract amendment. Should one or both parties be unsure of whether a change in price is a pricing amendment, further explanation is given in Section 2 covering variation of price (VOP) clauses, priced options and other contractual terms which may affect the contract price. Section 8 contains details on how to contact the SSRO for additional support.
- 1.9 Similarly, not within scope of this guidance is the novation of a QDC or QSC (the price of which, if determined by the novated contracts alternative pricing method, is the price payable under the replaced contract). Since a contract novation has the effect of extinguishing the original contract and replacing it with a new contract, this does not amount to a contract amendment. Further information on the novated contracts alternative pricing method can be found in the [SSRO's guidance on alternative pricing](#).

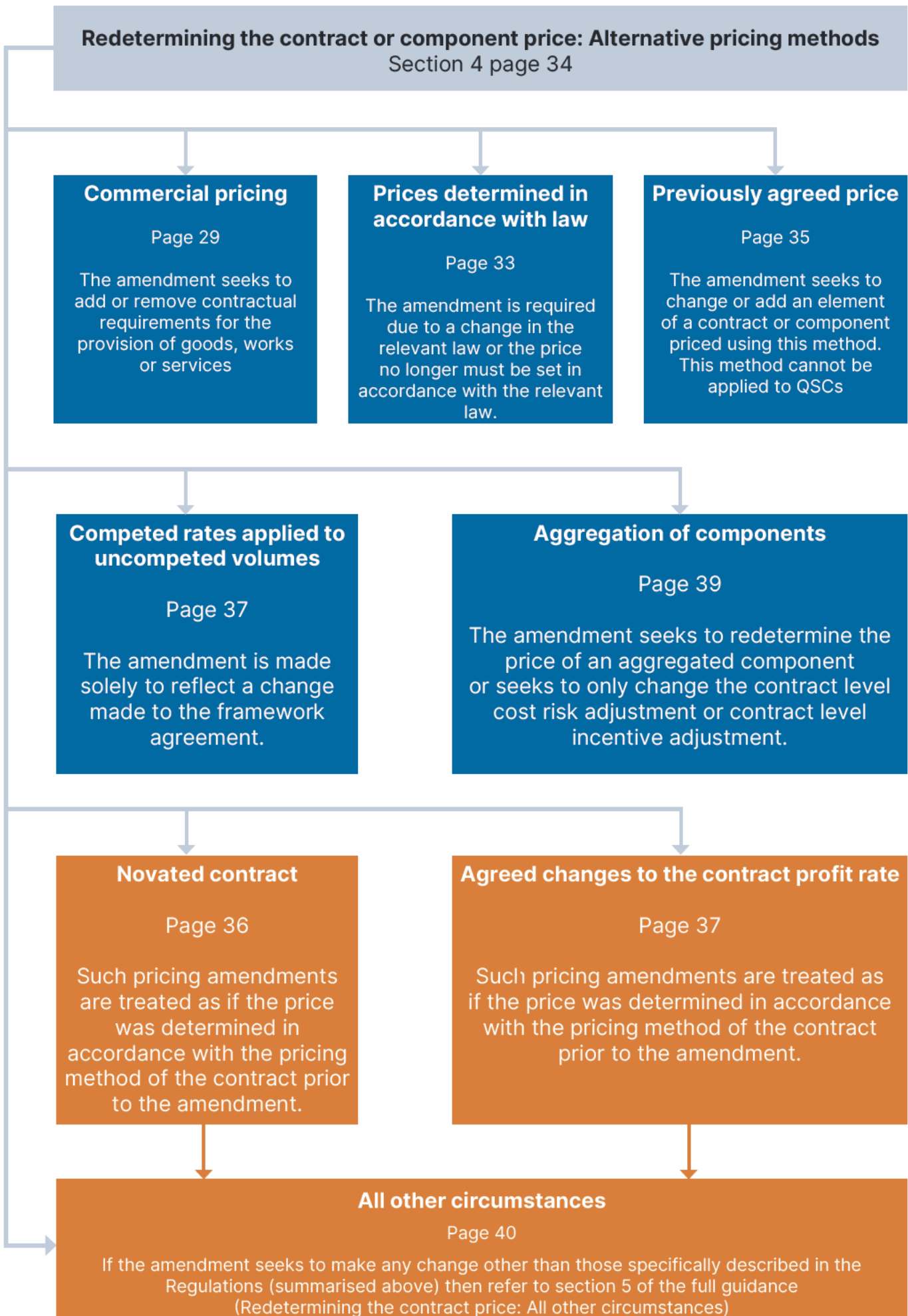
## QDC by amendment

- 1.10 In certain circumstances and for certain types of contract which are outside of the regime, an amendment may result in a contract becoming a QDC by virtue of section 14(4) or 14(5) of the Act. We refer to such a contract as a 'QDC by amendment'. The amendment which results in the contract becoming a QDC is outside the scope of this guidance (and parties should instead refer to section 5 of the [Guidance on the alternative pricing of contracts](#)). This guidance will apply, however, to any subsequent pricing amendments made to that QDC.

## Structure of this guidance

- 1.11 The remainder of this guidance is structured as follows:
- Section 2 Pricing amendments: common principles
  - Section 3 Redetermining the contract price: Default pricing methods
  - Section 4 Redetermining the contract price: Alternative pricing methods
  - Section 5 All other circumstances
  - Section 6 Making more than one pricing amendment
  - Section 7 Reporting requirements
  - Section 8 Getting help and resolving issues
  - Section 9 Key questions and answers regarding contract pricing amendments





## Key terms and definitions

Term name	Definition
Allowable costs	A term used for the costs incurred to deliver a QDC or QSC. Costs must be appropriate, attributable to the contract or component and reasonable in the circumstances (AAR) to be considered allowable. Where costs do not meet these requirements, they are not Allowable Costs.
Alternative pricing method	An alternative pricing method is one of the seven non-default pricing methods specified in the Regulations. These are: Commercial pricing, Prices determined in accordance with law, Previously agreed price, Novated contract price, Competed rates applied to uncompleted volumes, Agreed changes to the contract profit rate, and Aggregation of components.
Baseline profit rate (BPR)	Section 17(2) of the Act and regulation 11 of the Single Source Contract Regulations 2014 (the "Regulations") require that the contract profit rate for any qualifying defence contract that uses the pricing formula must be calculated by applying four steps. The first step requires taking the baseline profit rate which has been determined by the Secretary of State.
Component	A component is a part of the contract that is to be treated distinctly from other such parts in determining the price payable under the contract. A part of a contract must be treated distinctly if the Regulations contain provision to that effect, or may be treated distinctly by agreement of the parties.
Contract completion date	The date on which the contractor completes all obligations which entitle it to final payment under the contract or, if a contract is terminated before that date, the date the contract is terminated (Regulation 4(1)).
Contract pricing method	The method that has been used to determine the price of the contract or component. For a qualifying defence contract, or qualifying sub-contract, this must be one of the default pricing methods or one of the alternative pricing methods.
Default pricing method(s)	There are six default pricing methods, all of which determine the contract (or component) price by the formula: $(\text{Allowable costs} \times \text{Contract profit rate}) + \text{Allowable costs} = \text{Contract (or component) price.}$ <p>These six methods are: Firm Price, Fixed Price, Cost-plus, Estimate-based fee, Volume-driven pricing method, and Target pricing method.</p>
Defence Reform Act 2014 (the Act)	The primary legislation applicable to qualifying contracts.

Term name	Definition
Original contract price	The price determined for a contract or component prior to the proposed amendment. This can be the price determined when the contract or component was entered into or, if the contract or component has previously been subject to a pricing amendment, the price determined as a result of the previous amendment. In all cases, the price determined must be in accordance with a pricing method.
Qualifying defence contract (QDC)	Those contracts that fall within the scope of the Defence Reform Act and the Single Source Contract Regulations 2014, and that the Secretary of State has not exempted from being a QDC.
Qualifying sub-contract (QSC)	A qualifying sub-contract is a contract between a primary contractor and another contractor or between a sub-contractor and another contractor where it meets the definition laid down in section 28 of the Act and has been assessed and notified as a qualifying sub-contract pursuant to the procedure under section 29 of the Act.
Single Source Contract Regulations 2014 (the Regulations)	The secondary legislation applicable to qualifying contracts, enabled by the Defence Reform Act 2014.
Single Source Regulations Office (SSRO)	The independent non-departmental public body established under the Defence Reform Act 2014.

## 2. Pricing amendments: common principles

### Legislation relevant to this section

- When parties must treat an amendment to a contract as creating a new contract: Regulation 7A
- The way in which the price of a contract (or component) is to be redetermined when a pricing amendment is proposed: Regulation 9C and the Schedule to the Regulations

### What is a pricing amendment?

- 2.1 Where the parties to an existing QDC or QSC propose to change the terms of the contract by way of an amendment, they must consider whether the amendment would affect the original contract price (or a component of that contract price). Where such an amendment would affect the original price, it is referred to as a **pricing amendment**. This guidance covers all contract pricing amendments.
- 2.2 The “original contract price” in relation to a contract (or a component thereof) means the price determined in accordance with a contract pricing method, or, where the contract or component has previously been amended in a way that affected the price, the price as last determined in accordance with the Schedule.
- 2.3 Amendments that do not affect the original price of the contract are beyond the scope of this guidance as the Schedule to the Regulations does not apply in those circumstances. Neither the Act, the Regulations nor this guidance compel any party to agree to a pricing amendment.
- 2.4 Not every change that affects the price payable under a contract will amount to an amendment, or a pricing amendment. Where a contract contains pre-existing mechanisms which provide for potential changes, the operation of those mechanisms will not normally constitute an amendment of the contract. This may include, for example:
- the exercise of priced options or extensions which are expressly provided for in the contract and whose pricing was agreed at contract award;
  - the application of a variation of price (VOP) or price adjustment clauses which operate in accordance with criteria or formulae set out in the contract; and
  - other contractual provisions which anticipate and regulate changes to price, quantity, scope or duration without altering the contractual terms.

- 2.5 Where such a mechanism is exercised in accordance with the contract, any resulting change in the price payable is treated as arising from the operation of the contract as originally (or last) agreed, rather than from an amendment to the contract. In those circumstances, the Schedule will not apply.
- 2.6 By contrast, where the parties agree to change the contract outside the scope of any pre-existing contractual mechanism, such that the contractual terms or pricing are altered, this will generally constitute an amendment. If that amendment affects the original contract price, it will be a pricing amendment and the Schedule will apply. Whether a particular change constitutes an amendment will depend on the terms of the contract and the substance of the change, rather than the description applied by the parties.

### Example 1 : Change of pricing method and components

The parties to a proposed QDC agree that the firm price method will apply for the first two years of the contract, with the pricing method transitioning to fixed price for the final two years. This approach allows allowable costs in the final two years to be linked to an agreed inflation index, rather than relying on an estimated inflation uplift applied to allowable costs, as would be required if a firm price applied for the full contract term.

Under both firm and fixed pricing methods, allowable costs are estimated at the time of agreement, and those estimated allowable costs are agreed by the parties on entering into the contract. The parties also agree, at the outset, the inflation index that will apply to years 3 and 4 under a variation of price (VOP) clause applicable to the fixed price component. All other matters necessary to facilitate the change in pricing method, including the contract profit rate applicable to the fixed price component, are likewise agreed at the outset.

The transition from the firm price to the fixed price method then proceeds in accordance with the terms of the contract, and the price payable varies as a result of the operation of the pre-agreed VOP clause. In these circumstances, no pricing amendment is required, as the change in pricing method and the application of the VOP clause reflect the operation of pre-existing contractual mechanisms.

In contrast, had certain aspects of the fixed price component, such as the estimated allowable costs or the contract profit rate, not been agreed as part of the original contract pricing, a pricing amendment would have been required in order to determine the price payable under the fixed price component.

## Pricing amendments and new contracts

- 2.7 Contracting parties should be aware that in making an amendment to a QDC or QSC, they may in fact be entering into a new contract in accordance with regulation 7A. This guidance applies to amendments to QDCs or QSCs that do not result in a new contract being entered into.

## Componentisation

- 2.8 A component of a contract means a part of a contract that is to be treated distinctly from other such parts in determining the price payable under the contract. A part of a contract is to be treated distinctly where either the Regulations contain provision to that effect (i.e. the effect of applying the Regulations is that part of the contract is treated distinctly in determining the price payable), or where the parties agree that it should be treated distinctly. The Regulations include provision throughout whose application has the effect of treating one part of a contract distinctly from other parts, hence forming components. This is also reflected in Regulation 9A, which specifies three circumstances in which a component will always be formed:
- a. Where a part of the contract uses a different contract pricing method to the contract pricing method used in any other part of the contract. A contract pricing method means an alternative pricing method or a default pricing method.
  - b. Where a part of the contract has a different contract profit rate (CPR) to the CPR used in any other part of the contract.
  - c. Where it is mandated in the context of certain alternative pricing methods by regulation 19C(6), and paragraphs 14(7)(c) and 16(2)(b) of the Schedule to the Regulations. These are covered in sections 4A and 4C of this guidance.
- 2.9 Section 15 of the Act, which defines when the price of a Qualifying Contract is formed of components, applies to QSCs as it does to QDCs. However, regulation 9A does not apply to QSCs. Accordingly, the parties to a QSC will need to determine for themselves whether they have treated any part of the contract distinctly from another part when determining its price. Where such distinct treatment has occurred, the Act provides that the price is comprised of components. In practice, such distinct treatment is likely to arise in circumstances listed in regulation 9A, notwithstanding that QSCs are not within scope of that regulation.
- 2.10 The agreement of a pricing amendment can result in components being formed. This could happen where a pricing amendment only affects part of the contract price or where it applies a different contract pricing method or a different contract profit rate than is used elsewhere in the contract. The parties can, however, take steps to limit componentisation that they may find undesirable by limiting the number of pricing amendments. For example, combining a number of contractual changes, that might otherwise be individual pricing amendments, into a single pricing amendment by agreeing (where permitted) to apply a single contract profit rate to all the associated costs. The parties should carefully consider how they structure their amendments, as dividing the contract into small components will add complexity to both pricing and reporting. In addition, a disproportionate approach to componentisation may not be consistent with value for money and fair and reasonable prices. Example 2 below shows how this might work.

### Example 2: Change of pricing method and components

Three years into a five-year contract, the parties agree to amend the contract to change the pricing method used to determine the price for the remainder of the contract from cost-plus to target pricing (TCIF). The application of the Regulations in this way has the effect of treating one part (the first three years) of the contract distinctly from another part (the final two years) in determining the price payable under the contract. The Act defines these parts as components.

Assuming the original contract price was not made up of components, the pricing amendment would result in the creation of two components. The first would be a cost-plus component that included all allowable costs and profit on or before the time of agreement of the pricing amendment (the first three years of the contract). The second component would be priced using the target pricing method for the remaining two years of the contract.

Example 3 below shows how a number of tasking orders covering additional work to be performed under the contract can be subject to a single pricing amendment.

### Example 3: Change of pricing method and components

The parties have an existing firm price contract which allows tasking orders to be placed for additional work to be performed under that contract. During the year, three tasking orders are to be placed which will require the contract to be amended in a way that affects the contract price. The tasking orders are therefore “pricing amendments” and the contract price must be redetermined in accordance with the relevant provisions of the Schedule.

The tasking orders will change the quantity of the services under the contract, and so the contract price must be redetermined using the method for a change to the contractual requirement (see section 3C).

The parties decide to redetermine the contract price once, to reflect all three tasking orders as a single pricing amendment using the firm price method. The amount by which all three tasking amendments change the allowable costs under the contract is determined and a single contract profit rate agreed to apply to those allowable costs. Example 6 in this guidance provides more details on the practical application of redetermining the contract price in these circumstances. As all three tasking orders have been priced using the same pricing method and profit rate, the part of the contract price which relates to all three tasking orders will be a single component of the contract.

The parties may also have chosen to amend the contract to reflect each tasking order individually throughout the year. Each pricing amendment may have used a different pricing method or contract profit rate. Were that to be the case, more components would have been created than when the tasking orders were combined under a single pricing amendment.

- 2.11 Where a contract has two or more components, the price payable under the contract is the sum of the price payable in respect of each component. Where an aggregated cost risk adjustment or incentive adjustment has been applied, this also forms part of the price payable under the contract and will itself be a component.

- 2.12 When a pricing amendment creates components, the parties should seek to agree how these components will be treated in a calculation of any final price adjustment (FPA) that may apply. The FPA may be applied to the contract as a whole (excluding any components to which it cannot apply), or to components of the contract to which an FPA could apply (individually or in aggregate). The SSRO provides detailed [guidance on the FPA and its application](#), including on their aggregation for the FPA calculation.
- 2.13 The parties should familiarise themselves with specific reporting requirements when amending a contract in such a way that new components are formed. This is particularly important when making multiple pricing amendments, as whether each is treated distinctly for the purposes of pricing will determine the extent of the component level reporting that is required. The reporting guidance also covers circumstances in which reporting of variance may be done at contract, rather than component level.

### Single vs multiple pricing amendments

- 2.14 The approaches covered in the next three sections (3, 4 and 5) are for making single pricing amendments. The Regulations recognise that, in practice, the amendments parties may wish to make may not fit into a single amendment. The parties will need to exercise their judgment to select the approach(es) to the pricing of the amendment set out in these sections which matches their circumstances and apply the guidance accordingly. Section 6 covers the order in which multiple amendments need to be applied and should be read in conjunction with sections 3, 4 and 5.

## 3. Redetermining the contract price: Default pricing methods

- 3.1 Where the parties wish to make a pricing amendment to a contract, or component, that was last determined<sup>1</sup> using a default pricing method the Regulations set out the method that must be used to redetermine the contract or component price.
- 3.2 The default pricing methods are:
- Firm
  - Fixed
  - Cost plus
  - Estimate based fee
  - Volume driven
  - Target pricing
- 3.3 For pricing amendments to contracts or components using alternative pricing methods, refer to section 4.
- 3.4 The methods to redetermine a contract or component price fall into two distinct categories. One category is for cases in which the amendment will change the contractual requirement, and the other category is for where there is no change in contractual requirement.

### Allowable costs (AC) and Contract Profit Rates (CPR)

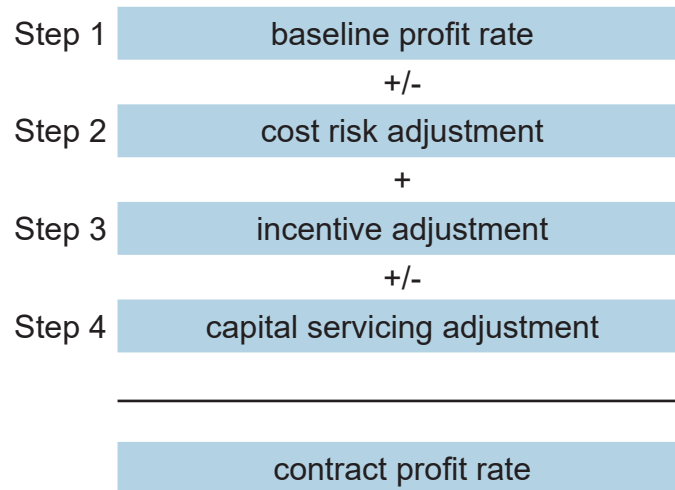
- 3.5 When applying this guidance, all allowable costs which are to be determined under the amended price must be in accordance with the legislation and with regard to the SSRO's [Allowable Costs guidance](#). When determining the allowable costs of an amended contract or component, there may be assumptions or estimates the parties continue to agree are applicable under the amended contract, and the legislation does not necessarily require every aspect of the allowable costs to be revisited if previous assumptions and evidence continue to apply. The SSRO encourages a proportionate approach, as it may not be necessary to undertake a full reassessment of the allowable costs if the parties agree the amendment does not alter any previous view that the costs were allowable.

#### Example 4: Previously agreed assumptions and estimates

Two years into a five-year contract, the parties wish to amend the contract to add an additional requirement. The parties agree that the approach to the treatment of certain overheads in the original contract remains consistent with the requirements of allowable cost. The parties therefore agree to take the same approach to determining this aspect of allowable cost for the additional requirement without having to re-assess that these overhead costs meet the requirements of allowable cost.

<sup>1</sup> See 'original contract price' per the Key terms & definitions in section 1

- 3.6 Pricing amendments for contracts or components using a default pricing method will have applied a CPR calculated using the pricing formula. Dependent on the type of pricing amendment being undertaken, the CPR may have to be re-determined for the contract or component as a whole or determined only in respect of the pricing amendment. Guidance for each method can be found below in sections 3A to 3C under the heading 'Determining the price of the amendment'. Detailed guidance on calculating the contract profit rate can be found on the [SSRO's website](#). The CPR for any contract or component using a default pricing method must be calculated by taking the following four steps:



- 3.7 The baseline profit rate (step 1) and capital servicing rates (used at step 4) will be those announced by the Secretary of State each year and in force for the financial year at the time of agreement to the amendment. The four steps apply in the same manner as if determining the profit rate for a contract or component but must be read as if associated with a pricing amendment. The parties will need to re-determine and agree any cost risk adjustment (step 2) or incentive adjustment (step 3). Assumptions and evidence underpinning the four-step process may need to be revisited where the regulations require it, although we would encourage a proportionate approach where previously agreed matters can continue to apply without substantial reconsideration.
- 3.8 If the CPR agreed is different to that used under the contract before the proposed amendment (referred to in the Regulations as the original contract profit rate, which may have previously been amended), it will create a new component for the price payable in respect of the pricing amendment. This may occur, for example, if a pricing amendment is made in a different financial year to that in which the contract or component's original price was agreed (as the baseline profit rate and capital services rates are determined on an annual basis and may therefore be different). It may also occur if the parties agree a different cost risk adjustment, incentive adjustment or if they agree to make the pricing amendment a separate component where it is not otherwise mandated. It may be possible that the CPR does not change, even if the baseline profit rate and capital servicing rates have changed but the parties have agreed to apply the four steps differently. The parties should be aware of the reporting requirements associated with components, including those components which may be created as the result of a pricing amendment. These circumstances are covered in section 2. Further guidance on reporting requirements can be found in section 7.

### 3A: Amendment of a default pricing method used for a contract or component of a contract

#### Legislation relevant to this section

- Change to a different default pricing method for a contract or component: Paragraphs 4 & 5 of Part 2 of the Schedule to the Regulations.
- Change from a default pricing method to an alternative pricing method: Paragraph 2A of Part 1 of the Schedule to the Regulations.

3.9 If parties propose to make a pricing amendment to a contract or component that changes the default pricing method to another default pricing method, they must redetermine the price payable under that contract or component using the following method. Changing the pricing method for a whole contract requires redetermining the contract price in full and for this, users should refer to section 5 of this guidance.

#### Overview of the method

3.10 This method of redetermining the price involves repricing the part of the contract or component which is subject to the amendment using a new pricing method, and leaving the price payable in respect of performance on or before the time of agreement for the amendment, including any other unperformed elements or components not subject to amendment, untouched. This scenario is dealt with in section 5.

3.11 The redetermined price payable in respect of the amended contract or component is the total of:

Change of pricing method for the whole contract	Change of pricing method to a component of the contract
<ul style="list-style-type: none"> <li>• The price payable in respect of performance under the contract on or before the time of agreement (in respect of the amendment); and</li> <li>• The price payable in respect of the pricing amendment.</li> </ul>	<ul style="list-style-type: none"> <li>• The price payable in respect of performance under the component on or before the time of agreement (in respect of the amendment);</li> <li>• The price payable in respect of the pricing amendment; and</li> <li>• The price payable for performance under the contract (other than performance under the amended component).</li> </ul>

3.12 The method set out above does not accommodate changes from a default pricing method to an alternative pricing method. For example, whilst it is possible to change from a cost-plus contract to a firm priced contract, a cost-plus contract cannot be changed to a commercially priced contract using this method. If parties propose to make a pricing amendment to a contract or component that changes the default pricing method to an alternative pricing method (or vice versa), they should refer to the guidance in section 5.

## Determining the price of the amendment

3.12 The price payable in respect of the pricing amendment must be determined in accordance with the pricing formula:

$$(CPR \times AC) + AC$$

Where –

- a. “CPR” is the contract profit rate for the pricing amendment, and
- b. “AC” means the primary contractor’s allowable costs after the time of agreement for the amendment, determined in accordance with the new default pricing method.

3.13 The allowable costs in respect of the amendment are determined in accordance with the default pricing method being changed to under the pricing amendment and relate to the part of the contract which is subject to the change of pricing method. In practice, there may be assumptions or estimates the parties continue to agree are applicable under the amended contract.

3.14 Where one part of a contract uses a different contract pricing method to any other part of the contract, each part which has a distinct pricing method will be a separate component as defined in the Act and Regulations. Therefore, changing the pricing method used for a part of a contract or component will create at least one new component. The parties should be aware of the reporting requirements that arise as a result of creating new components. These circumstances are covered in section 2. Further guidance on reporting requirements can be found in section 7.

### Example 5 : Changing the default pricing method

The parties to a QSC agree to amend a five-year, cost-plus contract at the end of the third year. The allowable costs agreed over the first 3 years are £100 million. For the remaining two years, the contract pricing method will be firm pricing, with estimated allowable costs of £50 million. This results in two components being formed: the contract price payable prior to amendment, and the price payable for the amendment.

#### Component 1 – Price payable under the contract prior to amendment

For the performance undertaken on or before the time of agreement, the price payable is determined using the cost-plus method in accordance with the pricing formula:

$$(CPR \times AC) + AC$$

The CPR agreed at the beginning of the contract was 10%. Over the course of the first three years the contract incurred £100 million of actual allowable costs.

The price payable in respect of component 1 is therefore:

$$(10\% \times £100m) + £100m = £110m$$

### Example 5 : Changing the default pricing method

#### Component 2 – Price payable in respect of the amendment

For the performance that will be undertaken after the time of agreement for the amendment, the price payable is determined using the firm pricing method in accordance with the pricing formula:

$$(CPR \times AC) + AC$$

The amendment is made three years after the beginning of the contract. The BPR and capital servicing rates are updated annually and have changed. After agreeing a cost risk adjustment (CRA) and incentive adjustment (IA), the new CPR for the amendment is 12%. For the final two years of the contract, the estimated allowable costs under the firm pricing method are £50 million.

The price payable in respect of component 2 is therefore:

$$(12\% \times £50m) + £50m = £60m$$

The total price payable under the contract is the total of both components:

$$£110m + £60m = £170m \text{ total contract price}$$

### 3B: Amendment to a defined element of Allowable Costs

#### Legislation relevant to this section

- Paragraph 6 of Part 2 of the Schedule to the Regulations

- 3.15 Where the parties wish to make a pricing amendment affecting a defined element of the Allowable Costs under the contract or component, but without necessarily changing the contractual requirements, the Regulations set out the method that must be used to redetermine the contract price. Guidance for this is set out below.
- 3.16 For example, this method could be used where the parties propose replacing a “provisional” set of cost recovery rates with agreed rates. Although it should be noted in the context of this example that it is a legal requirement that the parties are satisfied that any rates used in the pricing of a QDC or QSC (including those the parties may label as being provisional) are fully in accordance with the requirements of allowable costs of being appropriate, attributable to the contract (or component) and reasonable in the circumstances (AAR). As with any contract amendment, a pricing amendment to replace provisional rates requires the agreement of both contracting parties.
- 3.17 If the parties propose to amend the contract in a way that does result in a change to contractual requirement (i.e. a provision of the contract that sets out the specification, quantity, time or place for delivery of the goods, works or services provided under the contract) they should refer to section 3C.

## Overview of the method

- 3.18 This method of redetermining the price involves taking the original price payable under the contract, excluding the portion of that price related to the costs being changed by the amendment, and replacing that part with the price payable in respect of the amendment based on the revised allowable costs with its own contract profit rate applied.
- 3.19 This method can only be applied to contracts or components that use the following default pricing methods, and the price is the total of:

Pricing method	Redetermined price is the total of
Firm Fixed Volume-driven Target	The original contract price;
	Less: the amount of the original contract price which can be attributed to the defined element of allowable costs being changed – the <b>“adjustment amount”</b> ; and
	Plus: The price payable in respect of the amendment, based on the defined element of allowable cost after it is changed.

## Calculating the adjustment amount

- 3.20 The adjustment amount is the part of the original contract price which is attributable to the defined element of allowable costs being changed by the amendment.
- 3.21 To calculate the adjustment amount, apply the pricing formula using the defined elements of allowable costs being changed and the CPR used to determine the original contract price. If the contract has previously been subject to pricing amendments, the contract profit rate used in calculating the adjustment amount should be that which has most recently been applied to the allowable costs being changed in determining the price (if relevant).

## Determining the price of the amendment

- 3.22 The price payable in respect of the pricing amendment is determined using the pricing method of the contract or component being amended, and in accordance with the formula:

$$(CPR \times AC) + AC$$

Where –

- “CPR” is the contract profit rate for the pricing amendment, and
- “AC” means the defined element of allowable costs after it is changed, determined in accordance with the default pricing method used for the contract or component.

## Calculating the amended price

- 3.23 The amended price is calculated by taking the original contract price, subtracting the adjustment amount and then adding the price of the amendment.
- 3.24 It is common for the parties to agree a CPR for the price payable under the amendment that differs from the CPR which was used to determine the original contract (or component) price. In these circumstances, there will be at least two components going forward, as there will be a part of the contract which is not attributable to the amendment and a part of the contract which has been amended. This is due to the application of a different CPR and the amendment will be a separate component as defined in the Act and Regulations. The parties should be aware of the reporting requirements associated with creating new components. These circumstances are covered in section 2. Further guidance on reporting requirements can be found in section 7.

### Example 6 : Amending a defined element of allowable costs

A firm priced contract has a price of £110m, based on allowable costs estimated at the time of agreement of £100m and a CPR of 10%. This is the “original contract price”.

The defined element of allowable costs being changed is £10m. The defined element of allowable costs after amendment is £15m.

The adjustment amount is  $(£10m \times 10\%) + £10m = £11m$

The contract profit rate for the amendment must be calculated at the time of the amendment using the four-step process.

The BPR and Capital Servicing rates are determined each year and may change from year to year. This means that applying the 4-step process to calculate the CPR may result in a higher or lower CPR than the original CPR, even if the parties agree no changes to the incentive adjustment or cost risk adjustment. In this example the contract profit rate used for the amendment is 12%.

The price payable in respect of the amendment is  $(£15m \times 12\%) + £15m = £16.8m$

The price payable under the amended contract is:

*The original contract price – the adjustment amount + the price payable for the amendment*  
 $= £110m - £11m + £16.8m = £115.8m$

The use of a second profit rate creates two components, whereas the original contract had no components.

- Component 1 - the original contract price less the adjustment amount - £99m
- Component 2 - the price payable in respect of the amendment - £16.8m

## Cost-plus and estimate based fee pricing methods

- 3.25 When using either the cost-plus or estimate based fee pricing methods, the allowable costs are the actual allowable costs determined during the contract or after contract completion. As such there is no explicit provision in the legislation for these pricing methods for an amendment which affects a defined element of allowable costs, in the absence of a change in the contractual requirement.

## 3C: Change to a contractual requirement

### Legislation relevant to this section

- Paragraph 7 of Part 2 of the Schedule to the Regulations

3.26 Where the parties wish to make a pricing amendment that will change a contractual requirement of the contract or a component of the contract, the Regulations set out the method(s) that must be used to redetermine the contract price. The method will differ depending on the default pricing method used for the contract or component being amended.

### What is a contractual requirement?

- 3.27 In the context of a pricing amendment, a contractual requirement means a provision of the contract or component setting out:
- the specification of;
  - the quantity of; or
  - the time or place for the delivery of the goods, works or services procured under the contract.
- 3.28 Where contracting parties use alternative terms or definitions in respect of contractual requirements, this should not conflict with the substantive interpretation or application of this guidance.

### Overview of the method

- 3.29 A change to a contractual requirement which increases or decreases allowable costs that form part of the price payable under the contract will be a pricing amendment. The method of redetermining the price involves taking the original price payable under the contract and adding or subtracting from it the amount by which the amendment of the contractual requirements changes the contract price as appropriate. The approach differs from the method where the allowable costs are being changed but without a change in the contractual requirements, which involves additional steps to adjust the original contract price prior to adding back the price of the amendment (see section 3B).
- 3.30 This method can be applied to contracts or components that use any of the default pricing methods, and the price is the total of:

Pricing method	Redetermined price is the total of	Section
Firm Fixed Volume-driven Target Estimate based fee	The original contract price; and Adjust the price payable under the amendment reflecting the amount (which may be a negative amount) by which the pricing amendment will change the original allowable costs.	3Ci
Cost-plus, where costs resulting from the pricing amendment are distinguishable from the original costs	The original contract price; and Add the price payable in respect of the amendment reflecting the allowable costs resulting from the pricing amendment determined in accordance with the cost-plus method.	3Cii
Cost-plus, where costs resulting from the pricing amendment are not distinguishable from the original costs	The price payable under the contract on or before the time of agreement; and Add the price payable in respect of the amendment reflecting allowable costs after time of agreement for the amendment determined in accordance with the cost-plus method.	3Cii

### 3Ci: Amendments to contracts or components using the Firm, Fixed, Volume-driven, Target and Estimate based fee default pricing methods

#### Legislation relevant to this section

- Paragraph 7 of Part 2 of the Schedule to the Regulations

3.31 Where the parties propose to change a contractual requirement of a contract or component using the firm, fixed, volume-drive, target or estimate based fee default pricing methods they must first determine the price payable in respect of the pricing amendment.

#### Determining the price of the amendment

3.32 The price payable in respect of the pricing amendment is determined using the pricing method of the contract or component being amended, and in accordance with the following formula:

$$(CPR \times AC) + AC$$

Where –

- “CPR” is the contract profit rate for the pricing amendment, and
- “AC” means the amount (which may be a negative amount) by which the pricing amendment will change the original allowable costs.

3.33 “Original allowable costs” means the allowable costs under the contract or component, as estimated at the date the contract or component was entered into (or the price payable was last redetermined in accordance with the Schedule) for the purposes of determining the original contract price.

3.34 The price payable under the pricing amendment is added to (or subtracted from if it is a negative amount) the original contract price to arrive at the redetermined price for the contract or component.

### Example 7 : A pricing amendment that will change a contractual requirement

A firm priced contract has a price of £110m, based on allowable costs estimated at the time of agreement of £100m ('the original allowable costs) and a CPR of 10% ('the original contract profit rate'). The parties propose to change the contractual requirement in a way that would affect the contract price.

The change in requirement will reduce the original allowable costs by £5m. A contract profit rate for the amendment is agreed at 12% (Note: the BPR and Capital Servicing rates are determined each year and are likely to be different from those used for the original CPR. This means that applying the 4-step process to calculate the CPR may result in a higher or lower CPR than the original CPR, even if the parties agree no changes to the IA or CRA.)

The price payable in respect of the amendment is  $(-£5m \times 12\%) - £5m = -£5.6m$

The price payable under the amendment contract is:

*The original contract price + the price payable for the amendment*  
 $= £110m - £5.6m = £104.4m$

- 3.35 The price payable in respect of the pricing amendment and the original contract price are different components if they do not share the same contract profit rate. The parties may agree a CPR for the price payable under the amendment that differs from the CPR used to determine the original contract (or component) price. In these circumstances the price payable under the amendment will create a new component for the price payable in respect of the amended allowable costs. The parties should be aware of the reporting requirements associated with creating new components. These circumstances are covered in section 2. Further guidance on reporting requirements can be found in section 7.

### 3Cii: Amendments to contract or components using the Cost-plus default pricing method

#### Legislation relevant to this section

- Part 2 of the Schedule to the Regulations
  - Paragraphs 8 for distinguishable costs
  - Paragraph 9 for non-distinguishable costs

- 3.36 Where the parties propose to change a contractual requirement of a contract or component using the cost-plus pricing method, they must first determine if the allowable costs resulting from the pricing amendment are distinguishable from the original allowable costs.
- 3.37 Two methods are available to redetermine the contract price under a cost-plus contract to reflect a change in contractual requirements, as it will not always be possible to distinguish all future costs of the pricing amendment from those of the original contract price. As such, the parties will need to exercise their judgment and agree which is the appropriate method to use in each case.

## What does distinguishable costs mean?

- 3.38 The allowable costs of the amendment that will change a contractual requirement are “distinguishable” where:
- They will be incurred for, and attributable to, the change of requirement which is the subject of the pricing amendment; and
  - They can be identified separately, when pricing and during the execution of the contract, from the remainder of the Allowable Costs of the contract or component.
- 3.39 The parties will need to be satisfied these conditions will continue to be met through the life of the contract, as it will be necessary to ensure the correct contract profit rates are applied to the relevant allowable costs.

## Where costs are distinguishable: determining the price of the amendment

3.40 This method applies where the parties propose to change a contractual requirement of a contract or component using the cost-plus method and the allowable costs of the pricing amendment are distinguishable from those of the original contract.

3.41 The price payable in respect of the pricing amendment must be determined in accordance with the pricing formula:

$$(CPR \times AC) + AC$$

Where –

- a. “CPR” is the contract profit rate for the pricing amendment, and
  - b. “AC” means the primary contractor’s allowable costs resulting from the pricing amendment, as determined in accordance with the cost-plus method.
- 3.42 The price payable under the pricing amendment, which may comprise additions and deductions reflecting contractual changes, is added to the original contract price to arrive at the redetermined price for the contract or component.
- 3.43 Not all changes to allowable costs under a cost-plus contract will be the result of an amendment, and as such will not be considered a pricing amendment. Any such changes will be reflected in lower actual allowable costs under the contract, thereby reducing the contract price without further adjustment. This is due to the cost-plus pricing method using actual incurred costs to determine the contract price.
- 3.44 The parties will need to agree the allowable costs of all changes to the contractual requirements (i.e. the net of all additions and deductions under the particular pricing amendment) and apply a contract profit rate. The parties will need to agree a CPR for those allowable costs using the four-step process. Full guidance on the four-step process can be found on the [SSRO’s website](#).
- 3.45 The price payable in respect of the pricing amendment and the original contract price are different components if they do not share the same contract profit rate. Whether the contract profit rates are the same or not will depend on how the parties apply the four-step contract profit rate process.

### Example 8: A pricing amendment that will change a contractual requirement using the cost-plus method with distinguishable allowable costs

The parties propose to amend a cost-plus contract to change a contractual requirement in such a way that would increase the actual allowable costs. This increase may be the net result of a combination of additions and deductions. These additional costs are incurred for, and attributable to, this change of requirement and will be identified separately from the rest of the Allowable Costs for the remainder of the contract life.

Under the cost-plus method the allowable costs are the actual allowable costs determined during the contract or after its completion.

- At the point of the amendment there is a requirement (A) to perform work priced using the cost plus method, attracting a contract profit rate of 6.5%. The actual allowable costs for the requirement (A) are determined during the remainder of the contract or after its completion.
- The contract is amended to include an additional cost-plus requirement (B) whose costs are distinguishable from requirement (A). The additional actual allowable costs resulting from the change in a contractual requirement related to the amendment will be determined as they are incurred during the contract or after its completion. These will attract a contract profit rate for the amendment of 7%.

The actual price payable in respect of the amendment is not determined until the costs are incurred, confirmed as actuals and are agreed as allowable. Assuming the actual allowable costs of the requirement (A) are £100m and the additional actual allowable costs of requirement (B) are £10m then the amended contract price is:  $(£100m \times 6.5\%) + £100m + (£10m \times 7\%) + £10m = £117.2m$

The prices of requirements (A) and (B) each are components.

- 3.46 Where the change in requirement under this method is expected to cause the actual allowable costs to be lower than they would otherwise have been, then there are no costs resulting from the amendment and the price of the amendment is zero. In this case the amended price will reflect the application of the cost-plus method using the contract profit rate for the original contract price based on the actual allowable costs, which will themselves be lower due to the change in requirement as set out in 3.44.

### Where costs are not distinguishable: determining the price of the amendment

- 3.47 This method applies where the parties propose a pricing amendment that changes a contractual requirement of a contract or component using the cost-plus method and the allowable costs of the pricing amendment are not distinguishable from those of the original contract. Costs must be treated as not distinguishable if they do not meet the conditions set out in 3.39.
- 3.48 Under this method the price up until the time of agreement of the amendment ('the initial period') will remain as previously determined, and a further application of the pricing formula is used to determine the price from that point onwards ('the later period').

3.49 The price payable in respect of the pricing amendment must be determined in accordance with the pricing formula:

$$(CPR \times AC) + AC$$

Where –

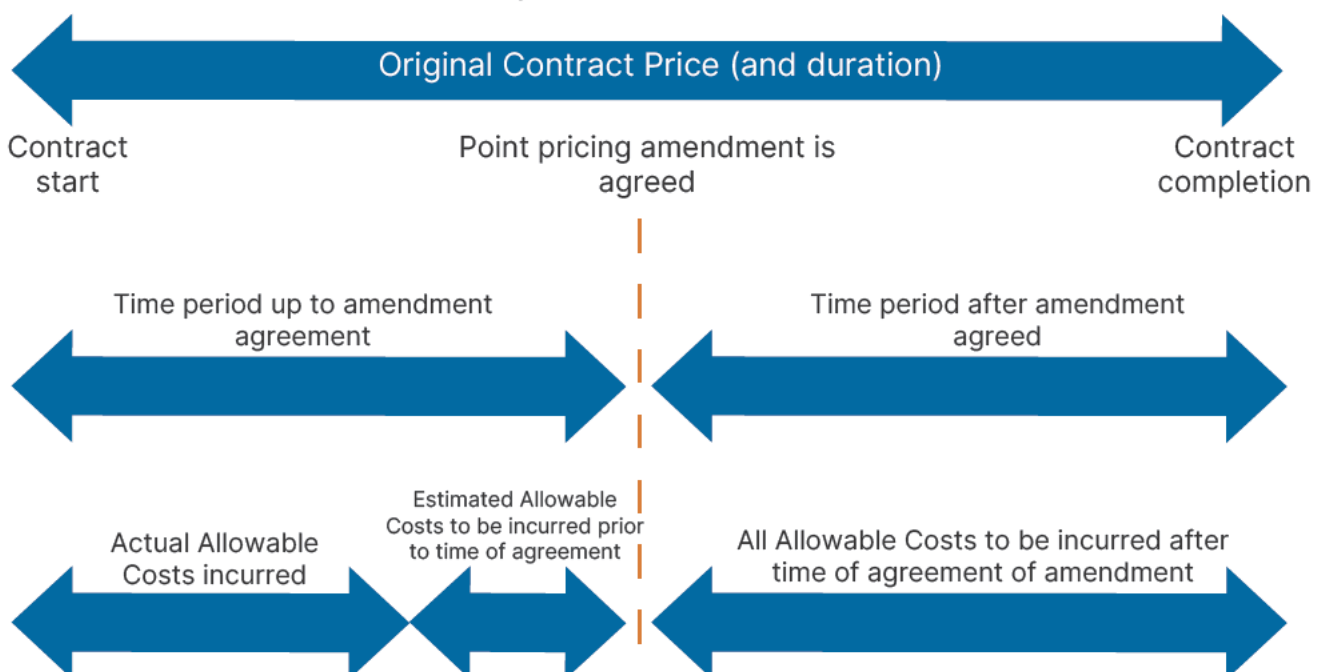
- a. “CPR” is the contract profit rate for the pricing amendment, and
- b. “AC” means the primary contractor’s allowable costs under the contract or component after the time of agreement (‘the later period’), as determined in accordance with the cost-plus method.

3.50 Under this approach, in determining the price payable under the amendment, no account is taken of any costs incurred in the initial period. Only those relating to the later period may be included. The contractor’s allowable costs in respect of the pricing amendment therefore means all of the contractor’s allowable costs incurred under the contract, or component, after the time of agreement.

3.51 The price of the amended contract or component is therefore the total of:

- The price payable under the contract on or before the time of agreement (this remains unchanged by the pricing amendment) and equates to the “initial period”; and
- The price payable in respect of all allowable costs incurred after the time of agreement, both those provided for under the original contract and those resulting from the change in contractual requirement.

**Amendment to a contract using the cost-plus default pricing method where costs are not distinguishable**



- 3.52 The illustrative timeline in the above example shows that in practice, contract amendment negotiations will often occur over a period of time leading up to the point at which the agreement is made. Therefore, it may occur that an amount of Allowable Costs remains subject to estimation covering the time of negotiations up to the point the pricing amendment is agreed. The allowable costs under the cost plus pricing method are the actual allowable costs determined during or after the contract (or component) completion. Therefore any element of allowable costs for the initial period which remains subject to estimation at the time of amendment can remain so until agreement is reached on the actual allowable costs at a later date.

#### **Example 9 : A pricing amendment that will change a contractual requirement using the cost-plus method with non-distinguishable allowable costs**

The parties propose to amend a cost-plus contract to change a contractual requirement in such a way that would increase the actual allowable costs. It was agreed that it will not be possible, as the contract progresses, to identify those allowable costs which relate to the changed requirement separately from those of the requirement as it had previously been agreed.

Under the cost-plus method the allowable costs are the actual allowable costs determined during the contract or after its completion.

- At the point of the amendment (i.e. on or before the time of agreement) there are £50m of actual allowable costs associated with the initial period, attracting a contract profit rate of 6.5%. The price payable in respect of the initial period is  $(£50m \times 6.5\%) + £50m = £53.25m$
- The actual allowable costs for the later period following the amendment (i.e. after the time of agreement) will be determined as they are incurred during the contract or after its completion. These will attract a contract profit rate for the amendment of 7%.

The actual price of the amendment is not determined until the costs are incurred, confirmed as actuals and are agreed as allowable. Assuming the actual allowable costs of the later period turn out to be £55m, then the price payable in respect of the amendment is  $(£55m \times 7\%) + £55m = £58.85m$  and initial period were as stated above £53.25m.

The amended contract price is:  $£53.25m + £58.85m = £112.1m$

- 3.53 The price payable in respect of the pricing amendment and the original contract price are different components if they do not share the same contract profit rate (CPR). If the parties agree a CPR for the price payable under the amendment that differs from the original contract or component price, the price payable in respect of the amended allowable costs will be a new component. The parties should be aware of the reporting requirements associated with the creation of new components. These are covered in section 2. Further guidance on reporting requirements can be found in section 7.
- 3.54 It is expected that a change in requirement that would cause the allowable costs to fall will always be distinguishable, since by definition a part of a contract is removed and therefore must be known. Should circumstances arise where this is not the case and costs are not distinguishable, the method can be applied in the same way as in circumstances where allowable costs increase. In this case the amended price will reflect the application of the cost-plus method as normal for the initial period. The price for the later period will then be determined as above reflecting the amended requirement and the actual allowable costs associated with that plus profit at a newly determined profit rate.

## 4. Redetermining the contract price: Alternative pricing methods

- 4.1 Where the parties wish to make a pricing amendment to a contract or component that was determined using an alternative pricing method, the Regulations set out the method by which to redetermine the price.
- 4.2 The alternative pricing methods are:
- Commercial pricing
  - Prices determined in accordance with law
  - Previously agreed price
  - Novated contract price
  - Competed rates applied to uncompleted volumes
  - Agreed changes to contract profit rate
  - Aggregation of components
- 4.3 Regulation on the application of the alternative pricing methods are set out in Chapter 3 of the SSCR, regulations 19A – 19G. The SSRO publishes separate guidance on their application on [its website](#).
- 4.4 For pricing amendments to contracts or components which use the default pricing methods, refer to section 3.
- 4.5 The following guidance applies when making a single pricing amendment. Additional guidance on the process parties must follow when making multiple pricing amendments can be found in section 6.

## 4A: Pricing amendment of contract or component priced using the commercial pricing method

### Legislation relevant to this section

- Regulation 19A
- Paragraph 14 of Part 4 of the Schedule to the Regulations
- Adding new requirements for GWS – Paragraph 14(2)-14(3)
- Removing contractual requirements where no costs have been or will be incurred - Paragraph 14(4)-14(5)
- Removing contractual requirements where costs have been or will be incurred - Paragraph, 14(5), 14(6), 14(7)

- 4.6 If the parties wish to make a pricing amendment to a contract or component that was determined using the commercial pricing method, there are three ways in which the price can be amended, depending on the circumstances. These are where the pricing amendment:
- a. will add contractual requirements for the provision of goods, works or services (“the new goods, works and services (GWS)”):
  - b. will remove contractual requirements for the provision of GWS and either:
    - i no costs have been, or will be, incurred in relation to the provision of the ‘removed requirement’; or
    - ii costs have been, or will be, incurred in relation to the reduced requirement.

### Adding contractual requirements for the provision of new goods, works or services

- 4.7 This method applies where the pricing amendment will add a contractual requirement for the provision of Goods, Works or Services (“the new GWS”) and the commercial pricing method can be applied to determine the price of the new GWS. To do this, the parties must be satisfied that if, instead of the new GWS being provided as an amendment to an existing contract or component, they were instead being priced under a hypothetical new contract, then the conditions which enable the commercial pricing method to be used under that contract would be met. In broad terms, this means the price of the new GWS could be set with reference to a competitively determined price for the same or equivalent GWS. These requirements are set out in the [SSRO’s guidance on alternative pricing](#). Where these requirements are not met, this method cannot be used, and the parties should refer to section 5.
- 4.8 To redetermine the contract price using this method, the parties must:
- a. determine the price of the new goods, works or services using the commercial pricing method (“the price for the amendment”).

- b. apply any further reasonable adjustment to the price for the amendment to account for the cost of the new GWS as a consequence of any existing requirements under the contract or component.
- c. Add the sum of the price of the contract or component before the pricing amendment, and the price for the amendment in order to obtain the redetermined contract or component price.

4.9 Guidance on how to apply the commercial pricing method can be found in the [SSRO's alternative pricing guidance](#).

#### Example 10 : Adding additional goods to a commercially priced contract

The parties to a QDC entered into a contract using a commercial price of £100 per unit for 100 units. They propose to make a pricing amendment that will increase the number of units supplied to 150.

The additional 50 units (the new goods, works or services) are priced using the commercially priced method. These are identical to the existing 100 units and have a commercial price of £100 per unit. However, to maintain the same contract completion date including the additional 50 units requires extra overheads (only for the new units) to be incurred by the contractor. The parties agree that an adjustment of an additional £5 per unit is reasonable. The price payable in respect of the pricing amendment is therefore 50 units at £105.

The parties must be satisfied the conditions of using commercial pricing are met. This may require new evidence for reasonable changes as well as agreeing previously submitted evidence is still valid.

This results in a redetermined total contract price of:

$(100 \times £100) + (50 \times £105) = £15,250$  for 150 units.

#### Removing contractual requirements for the provision of goods, works or services with no additional cost

- 4.10 This method can be applied if the pricing amendment will remove a contractual requirement for the provision of goods, works or services (“the removed requirement”), and no costs have been, or will be, incurred in relation to the provision of the removed requirement.
- 4.11 Costs in this case refer to expenditure by the contractor to meet the “removed requirement”. For example, expenditure on materials or manufacturing of products whose supply had been contracted for but are no longer required. No regulatory equivalence should be drawn between these costs and allowable costs which are relevant only in the context of the pricing formula.
- 4.12 The parties must redetermine the price so it is as it would have been at the time of agreement under the commercial pricing method had it not included the removed requirement. The steps to be followed are:
- a. determine the price payable under the commercial pricing method that would have been payable at the time of agreement without the removed requirements; and
  - b. adjust the original contract or component price so that it is equivalent to the newly determined price that has taken into account the removed requirement.

**Example 11 : Removing a volume of goods required from a commercially priced contract**

The parties to a QDC entered into a contract using a commercial price of £100 per unit for 100 units. They propose to make a pricing amendment that will decrease the number of units to be supplied to 75.

The 75 units required are priced using the commercially priced method. The parties agreed a higher unit cost of £110 for the 75 units was appropriate and reasonable.

The original price of the QDC for 100 units was  $100 \times £100 = £10,000$

The price of 75 units at £110 would be  $75 \times £110 = £8,250$

The redetermined contract price for the amended contract is therefore adjusted to £8,250.

**Removing contractual requirements for the provision of goods, works or services with additional costs**

- 4.13 This method can be applied if the pricing amendment will remove a contractual requirement for the provision of goods, works or services (“the removed requirement”), and costs have been, or will be, incurred in relation to the provision of the removed requirement (“the incurred costs”). These are costs the supplier may have incurred or expects to incur in order to meet the contractual requirement which the amendment seeks to remove.
- 4.14 The contract or component price must initially be redetermined in the same manner as would be the case where there are no additional costs (see 4.10 – 4.12) i.e. to redetermine the price so it is as it would have been at the time of agreement under the commercial pricing method had it not included the removed requirement. Following this, the price is further adjusted to reflect the costs that have, or will be, incurred. This may include reasonable adjustments in accordance with those set out in the SSRO’s [alternative pricing guidance](#).
- 4.15 The price payable in respect of the incurred costs must be determined using a pricing method other than the commercial pricing method. For example, a default pricing method such as firm or cost-plus pricing. This price is defined in the Regulations as a new component of the contract price, alongside the commercial price component which excludes the removed requirement, and any other components which might exist.

**Example 12 : Removing a requirement from a commercially priced contract**

The parties to a QDC entered into a contract using a commercial price of £100 per unit for 100 units painted green. They propose to make a pricing amendment that will remove the requirement to paint them green.

20 units have already been produced, have been painted green and their costs have been incurred. The units require the green paint to be removed under the amended contract.

The remaining 80 units required are priced using the commercially priced method. The parties agree a lower unit cost of £90 (the commercial price for an unpainted unit) for the 80 units is reasonable as no cost for the green paint will be incurred.

This amendment will result in the creation of two components as required by the Schedule. You will have the commercially priced component for the 100 units still, and the component for the incurred costs.

For the first component, the same process is followed as in paragraphs 4.10 – 4.12. The original contract price (100 units at £100 = £10,000) is adjusted so that it is equivalent to the amended requirements (100 units at £90 = £9,000).

For the second component, the costs already incurred must be priced. This component cannot use the commercially priced method. The parties choose the cost-plus pricing method and agree the price of the costs already incurred (or will be incurred) in relation to the reduced requirement to be £2,000. This price is agreed using the pricing formula as a default pricing method was chosen by the parties. The price includes the cost of painting the 20 units green, removing the green paint from 20 units and the excess paint not required under the reduced requirement.

The total contract price is the total of both components:

$$£9,000 + £2,000 = £11,000$$

## 4B: Pricing amendment of contract or component priced using Prices determined in accordance with law method

### Legislation relevant to this section

- Regulation 19B
- Paragraph 15 of Part 4 of the Schedule to the Regulations

4.16 This method applies if the parties propose to make a pricing amendment to a contract or a component that was last determined using the prices determined in accordance with law method.

4.17 For the purpose of this method, a relevant law means:

- statutes, rules, regulations, codes of practice, or requirements of regulatory authorities whether of the United Kingdom or otherwise;
- compliance with which is mandatory for at least one of the parties; and
- which applies to the provision of GWS under the contract or component.

4.18 A pricing amendment may be proposed to reflect any of the three following circumstances:

- The relevant law has changed in such a way that it specifies a new price that must be paid for the goods, works or services; or
- The relevant law has changed and does not specify the price that must be paid for the goods, works or services, but contains pricing requirements that must be complied with; or
- The pricing amendment will remove a contractual requirements for the provision of goods, works and service (“the removed requirement”) and the Secretary of State is no longer satisfied the price of the goods, works or services in relation to a particular requirement must be set in accordance with the relevant law.

### The relevant law has changed which affects the price payable under the contract

4.19 It may be that the relevant law still applies but has changed since the contract or component was priced, in such a way that necessitates a pricing amendment. In this case, and only if the pricing amendment is made entirely as a consequence of the change in the relevant law, the price may be amended to reflect that change.

4.20 The redetermined price of the contract or component will depend on whether the relevant law specifies the price payable or not:

- Where the relevant law specifies the price payable under the contract or component, the pricing amendment must adjust the price to be as specified by the relevant law.
- Where the relevant law does not specify the price payable under the contract or component, the pricing amendment must adjust the price such that it is as close as possible to the price which would have been agreed between the parties in compliance with the Act and Regulations but for the application of the amended relevant law. Such a pricing amendment is only permitted where it is made entirely as a consequence of the relevant law.

### Example 13: Change to the relevant law where law still applies

A QDC has been priced using the prices determined in accordance with law alternative pricing method. Due to a change in the relevant law the parties to the QDC propose to make a pricing amendment. The only reason for this amendment is the change in the relevant law. The relevant law does not specify the price of a service that is being provided under the QDC but does limit the maximum amount that can be charged to £100. If the QDC had been priced using a default pricing method, the allowable costs for the service would have been £110.

The change in the relevant law has decreased the maximum amount that can be charged for the service to £95. As such the parties propose to make a pricing amendment under the Prices determined in accordance with law method that will adjust the contract price to as close as possible to the price that would have been agreed between the parties in compliance with the Act and Regulations. In this example, the price is adjusted to £95 to get as near as possible to the £110 while still complying with the relevant law.

Note that this amendment would apply only to the period after the law had been amended, and the original price of £100 would remain valid up to the time of amendment. This will result in the amended contract having two components.

### Removal of a requirement and the relevant law no longer applies to the provision of the goods, works and services

- 4.21 In cases where the circumstances change and the relevant law no longer applies to the pricing of some or all of the goods, works and services, a pricing amendment may be made to reflect this. The parties may therefore decide to make a pricing amendment to remove the requirement in respect of those GWS from the contract or component and adjust the price payable to reflect the removed requirement.
- 4.22 If having removed the requirement, there remain GWS whose prices remain subject to the relevant law, this will determine the adjusted price for the contract or component. The parties must agree what price would have been determined in accordance with the relevant law in respect of the contract or component at the time of agreement, taking into account the removed requirement, and adjust the price payable to this amount.
- 4.23 The GWS which are no longer subject to the relevant law may, if still required by the MOD, be included within the contract under a further pricing amendment using another contract pricing method.

## 4C: Pricing amendment of contract or component priced using the previously agreed price method

### Legislation relevant to this section

- Regulation 19C
- Paragraph 16 of Part 4 of the Schedule to the Regulations

- 4.24 This method applies if the parties propose to make a pricing amendment to a contract or a component that was determined using the previously agreed price method. In broad terms, a QDC may be subject to the previously agreed price method where:
- It became a QDC by amendment; or
  - The price and obligations under an existing QDC were transferred to another QDC.
- 4.25 The previously agreed price method cannot be applied to QSCs and it therefore needs no further consideration in the context of pricing amendments to QSCs.
- 4.26 Full guidance on the previously agreed pricing method can be found in section 5 of the [Guidance on the alternative pricing of contracts](#).
- 4.27 If the parties propose to make a pricing amendment to a contract or component that applied the previously agreed price method, they must either:
- Re-determine the price of the entire contract or component. The re-determined price must take account of any change to the contract or component as a result of the pricing amendment; or
  - Create a new component containing the obligations to provide goods, works or services under the amendment part of the contract which have not yet been performed under the contract or component. The completed obligation must then also form part of a further separate component.
- 4.28 In both cases, the previously agreed price method cannot be used for the determined/re-determined price. The re-determined price for the whole contract or determined for the new component (as the case may be), can use any other contract pricing method, subject to the relevant conditions being met.
- 4.29 When re-determining the price of an entire contract or component under this method, it should be treated as if it had been determined using the new pricing method, and not the previously agreed price method. Any new component created must also be treated as if it had been determined using the new pricing method, and not the previously agreed price method.

### Example 14: Amendment to the contract price which has applied the previously agreed price method

A QDC by amendment exists which applies the previously agreed price method. This QDC contains two components.

- Component 1 – Goods, works and service (GWS) provided under the contract prior to and following the date of conversion whose price was agreed prior to the date of conversion
- Component 2 - GWS to be provided after the date of conversion that did not have an agreed price prior to the date of conversion. The price of these GWS has been determined using the firm pricing method.

The parties agree to make a pricing amendment to change the requirements of the contract in such a way that affects the price of the GWS under both components and adds an additional separate requirement. The amended requirements will form a new component which the parties agree will use the firm price method. The amended contract will contain three components:

- Component 1 – Good works and service (GWS) provided under the contract prior to and following the date of conversion whose price was agreed prior to the date of conversion. The price of this component remains unchanged.
- Component 2 - GWS to be provided after the date of conversion that did not have an agreed price prior to the date of conversion. The price of these GWS has been redetermined to reflect the amendment requirement.
- Component 3 – GWS related to the additional requirement price using the firm price method.

## 4D: Pricing amendment of contract or component priced using the Novated contract price method

### Legislation relevant to this section

- Regulation 19D of the Regulations
- Paragraph 2A of Part 1 of the Schedule to the Regulations (pricing amendments not covered by Parts 2 or 4 of the Schedule)

- 4.30 Novation occurs when a party to a contract changes. Novation extinguishes the original contract and replaces it with another, under which the incoming party takes up the rights and obligations which duplicate in all material respects those of the outgoing party. This can occur in different situations, including when a company undergoes a merger, acquires another company, or is itself acquired.
- 4.31 The novated contract price method, as an alternative pricing method, ensures that the price of the new QDC or QSC is the price payable under the extinguished QDC or QSC, and so it does not need to be redetermined.

- 4.32 Under this method, the new contract is treated as if its price was determined in accordance with the method(s) with which the price of the original (extinguished) contract was determined. The parties should therefore refer to the section(s) of this guidance which applies to the type of pricing amendment they are seeking to make, consistent with the pricing method(s) of the original & new contract (which will be the same per paragraph 4.30). There are no specific additional regulatory provisions for pricing amendments to contracts which are subject to this method.

#### **Example 15: Amendment to the contract price which has applied the Novated contract price method**

Contractor (A) holds a firm priced QDC. Contractor (A) then merges with another company (B), resulting in a new entity, Contractor (C). A novation occurs under which Contractor (C) assumes all rights and obligations of the existing QDC. The QDC originally held by Contractor (A) is thereby extinguished and replaced by a new QDC held by Contractor (C).

The new QDC retains the same firm price as was payable under the extinguished QDC. Any proposals to amend the new QDC will be considered on the basis that it remains a firm priced contract and is therefore subject to the relevant regulations and guidance applicable to pricing amendments for such contracts.

### **4E: Pricing amendment of contract or component priced using the Competed rates applied to uncompleted volumes (CRUV) method**

#### **Legislation relevant to this section**

- Regulation 19E of the Regulations
- Paragraph 17 of Part 4 of the Schedule to the Regulations

- 4.34 The CRUV method allows the price payable under a contract or component to be determined by using the applicable unit prices or rates provided for in a framework agreement. Under this method the price of the contract or component must be agreed using the applicable unit prices or rates contained in the framework agreement for the goods, works and services being provided under the QDC or QSC. In order to use this pricing method, those unit prices or rates must not deviate from the terms of the framework agreement.
- 4.35 If the parties propose to make a pricing amendment to a contract or component, they can only do in a way that is consistent the terms of the framework. Full guidance on the conditions for using, and how to apply, this alternative pricing method can be found in section 7 of the [Guidance on the alternative pricing of contracts](#).

**Example 16: Amendment to the contract price which has applied the CRUV method**

A QDC includes a component priced under an existing competed framework contract, under which the MOD may purchase units at £100 per unit. The QDC specifies a requirement for the supply of 10,000 units at a total price of £1 million.

The parties subsequently agree a pricing amendment to increase the purchase volume to 12,000 units. Under the terms of the framework, additional volume is priced at the same unit rate of £100, resulting in a revised contract price of £1.2 million.

The MOD seeks a unit price discount from the supplier on the basis of the increased purchase volume. However, there is no provision for volume discounts within the framework contract, and the unit price must therefore be applied as specified. While the parties considered amending the framework contract to introduce a volume discount mechanism, this was not considered practical in the circumstances.

**4F: Pricing amendment of a contract priced using the Agreed changes to the contract profit rate method****Legislation relevant to this section**

- Regulation 19F
- Paragraph 2A of Part 1 of the Schedule to the Regulations (pricing amendments not covered by parts 2 or 4 of the schedule)

4.36 The Regulations allow for the rate of profit on a contract or component to be changed after the time of agreement in circumstances where:

- An error has been identified in the determination of the contract profit rate. This may apply, for example, where the wrong baseline profit rate has been used in the calculation; or
- The parties agree that an adjustment should be applied to the contract profit rate, in accordance with regulation 11(6) – the incentive adjustment.

4.37 Under this method, the contract or component which is changed is treated as if its price was determined in accordance with the method(s) with which the price of the original contract was determined. For example, if the contract used the firm price method, and an error in the determination of the contract profit rate is corrected, that contract or component will still be considered to have been priced using the firm price method. The parties should therefore have regard to the guidance which applies to the type of pricing amendment they are seeking to make, consistent with pricing method(s) of the contract. There are no specific additional regulatory provisions for pricing amendments in respect of contracts which are subject to this alternative pricing method.

4.38 For examples, please see the sections of this guidance on amendment relating to the method(s) with which the price of the original contract was determined.

## 4G: Pricing amendment of a contract priced using aggregation of components method

### Legislation relevant to this section

- Regulation 19G
- Paragraph 18 of Part 4 of the Schedule to the Regulations

- 4.39 The aggregation of components method allows the parties to agree that the price of a contract comprising multiple components can be adjusted within specified limits to reflect financial risk, or to provide an incentive for the contractor, that has not otherwise been captured in calculating the profit rate of each component. Such adjustments are referred to as contract level adjustments or, individually, as the contract level incentive adjustment or contract level cost risk adjustment.
- 4.40 If the parties wish to make a pricing amendment to a contract that was determined using the aggregation of components method, there are two ways in which the price can be redetermined depending on the nature of the pricing amendment:
- If the price of a component determined using a default pricing method or another alternative pricing is to be redetermined, this should be in accordance with the appropriate method set out elsewhere in this guidance. Post this redetermination the contract price will need to be further redetermined using the aggregation of components method.
  - If the amendment relates only to changes to the contract level incentive adjustment or contract level cost risk adjustment (i.e. the aggregation of components part), the contract price may be adjusted to reflect that change in accordance with the SSRO's alternative pricing guidance.

### Example 17: Changing the price of a component which is subject to the aggregation of components method

A QDC has been priced as two components, one using the firm pricing method and the other using the target pricing method. The aggregation of components method has been used to include a contract level incentive adjustment which created a third component.

The parties propose to amend the contractual requirement in such a way that affects the firm priced component. The price of that component is re-determined, in the case of this example, in accordance with the guidance in section 3C. The contract incentive level adjustment is then determined as before in accordance with the SSRO guidance on the aggregation of components method.

This example is analogous to circumstance in which the contract had contract level CRA instead or as well as a contract level IA. As such the approach would be the same.

## 5. All other circumstances

### Legislation relevant to this section

- Paragraph 2A of Part 1 of the Schedule to the Regulations (pricing amendments not covered by parts 2 or 4 of the Schedule)

- 5.1 The Regulations set out how the parties to a contract must approach the redetermination of the price payable of a contract or component. Prescribed approaches that parties to a contract must follow for various particular types of pricing amendment are covered in sections 3 and 4 of this guidance. Where the proposed pricing amendment does not fall within any of these approaches, the Regulations sets out the approaches that the parties must follow.
- 5.2 The circumstances which may be applicable are:
- a. The pricing amendment creates a new component to the contract
  - b. The pricing amendment does not create a new component to the contract
  - c. The original contract price contains no components
  - d. The original contract price contains two or more components
- 5.3 Section 2 of this guidance explains more about components.

### A new component is created as a result of the pricing amendment

- 5.4 If the parties wish to create a new component, or are required to do so by the Regulations, the new component must be priced in accordance with a contract pricing method (default or alternative). For example the parties decide to add to the scope of an existing firm price contract using an alternative pricing method. The parties may agree on the contract pricing method to be used for the amended contract or component. If the parties agree to price parts of the contract using different pricing methods, multiple components would be formed. Should subsequent amendments be made, the components would be treated as if originally priced using the chosen pricing method.

### No new component is created as a result of the pricing amendment

- 5.5 If the parties wish to make an amendment to a contract (or component) that does not create a new component, but which would otherwise affect the original contract price, the price payable for that contract (or component) must be redetermined. For example they could agree to amend the contract to entirely determine an existing firm price, or entirely redetermine the price of an existing component of a multi components contract. The price must be redetermined in accordance with a contract pricing method (default or alternative) and must comply with all conditions of the pricing method to be used. Should subsequent amendments be made, the contract (or component) would be treated as if originally priced using the chosen pricing method.

- 5.6 As above, when changing the pricing method used, components will often be created and the SSRO strongly recommends parties become aware of the reporting requirements associated with creating new components. If the parties wish to make subsequent pricing amendments to these new components, they would be treated for the purposes of the Regulations as if they were determined using the pricing method chosen when they were created.

## 6. Making more than one pricing amendment

### Legislation relevant to this section

- Paragraph 2B of Part 1 of the Schedule to the Regulations

- 6.1 The methods set out above concern single pricing amendments. In practice, parties frequently make multiple amendments to their contract or components at the same time. This section will aid parties to understand the process and practical considerations when making multiple amendments.
- 6.2 Where parties propose to make multiple pricing amendments at the same time, the Regulations set out the process that must be followed. The Regulations require that:
- Each pricing amendment must be dealt with separately and in turn.
  - The methods for making a pricing amendment apply as set out in sections 3 (default pricing) and 4 (alternative pricing) above of this guidance.
- 6.3 Any change from one contract pricing method for a contract or component to another must be dealt with first. These changes are described in sections 3A (Amendment of a default pricing method used for a contract or component of a contract) and 4C (Previously agreed price method). The other pricing amendments set out in sections 3 (default pricing) and 4 (alternative pricing) are dealt with next (to the extent that they apply).
- 6.4 Any amendments that apply as set out in “Section 5: All other circumstances” of this guidance must be dealt with last.

**Example 18: Making more than one pricing amendment**

The parties propose to make several pricing amendments. They wish to change the pricing method used, for one component, from the CRUV alternative pricing method to the commercially priced alternative pricing method. For a different component they propose to change from the firm default pricing method to the fixed price method. They also propose to amend a contractual requirement.

The process and order for making these multiple amendments (set out in the section above) will be:

1. change the firm priced method to the fixed price method (change of default pricing method using section 3A);
2. change of contractual requirement (using section 3C); and
3. change the CRUV method to the commercial pricing method (using section 5: All other circumstances).

By following the process and order for multiple pricing amendments, parties can consolidate them into a single contract amendment. This can remove the additional reporting requirements that result from creating components for each change were these changes to be made individually.

# 7. Reporting Requirements

## Legislation relevant to this section

- Requirement to report date and reference number of most recent amendment: For contracts - Regulation 22(2)(j). For components - Regulation 22(2A)(h).
- Requirement to report the pricing method used to determine the price payable under each component – Regulation 22(2A)(i)
- On when to produce a new contract pricing statement following amendment: Regulation 23(1)(a), (b)
- On when to produce a new contract reporting plan following amendment: Regulation 24(1)(a), (b).
- Quarterly Contract Report: Regulation 26(1), (2), (3) and (6B)
- Interim Contract Report: Regulation 27(1), (2), (3), (3A)
- Component Completion Reports: Regulation 27A (1), (2), Regulation 28(1)
- Contract Completion Report: Regulation 28(1)
- Contract Costs Statement: Regulation 29(1)

- 7.1 Where parties agree to enter a pricing amendment it may result in additional reporting requirements in DefCARS. The SSRO publishes [guidance on completion of contract reports](#) on its website.
- 7.2 A contract pricing amendment may require a revised Contract Pricing Statement (CPS) & Contract Reporting Plan (CRP) to be submitted, depending on whether the contract was entered into pre or post 01 April 2024. The timescale for submitting the reports is dependent on whether the amendment is greater than or equal to £10 million. Further guidance can be found in table 2 of [Reporting guidance on preparation and submission of contract reports](#).
- 7.3 Where a contract pricing amendment creates a new component, each component will have individual reporting requirements. These requirements, and their timescales, are dependent on whether the component is equal to or greater than £50 million and if it completes more than 12 months before the contract completion date. Further guidance can be found in tables 28 and 32 of the [Reporting guidance on preparation and submission of contract reports](#).

## 8. Getting help and resolving issues

8.1 While it is envisaged in most situations that this guidance will be sufficient to enable parties to agree a pricing amendment, there may be cases where further assistance is needed. There are three ways in which the SSRO can help in these circumstances:

- The SSRO helpdesk.
- Non-referral advice service.
- Referral for an opinion or determination.

More information on these services is set out below and is also available on the [SSRO's website](#).

### The SSRO helpdesk

8.2 Our helpdesk provides ongoing support to contractors and the MOD. It operates from 9am to 5pm Monday to Friday, excluding UK bank holidays. It can be contacted on 020 3771 4785 or by email at [helpdesk@ssro.gov.uk](mailto:helpdesk@ssro.gov.uk). We can also arrange online video calls via Microsoft Teams. We answer most helpdesk queries within 1 or 2 working days and aim to respond to all queries within a maximum of 5 working days. The SSRO also publishes on a quarterly basis the [responses it provides to commonly asked questions](#).

8.3 MOD staff should follow internal routes for guidance and support in the first instance but can also (after that) contact the SSRO helpdesk for any additional support.

8.4 QDC and QSC contractors should follow their own policies and processes when seeking support from the SSRO.

### Non-referral advice service

8.5 We provide a non-referral advice service for contract-specific queries on applying the regulatory framework that are more complex in nature and require input from a number of SSRO staff members. This service offers independent, authoritative and written advice on a confidential basis on any matter related to the interpretation and application of the regulatory framework for qualifying defence contracts. Either party to a current or proposed qualifying contract may seek independently or jointly non-referral advice on the application of the regulatory framework to that contract. Further information, including a request form, on the SSRO's non-referral advice service can be found on [our website](#).

### Referrals

8.6 The MOD or a contractor may seek an expert opinion or determination from the SSRO on contract pricing amendments. We have published [guidance for the MOD and contractors on making a referral for an opinion or a determination](#). To discuss a potential referral, please email [referrals@ssro.gov.uk](mailto:referrals@ssro.gov.uk) or contact [helpdesk@ssro.gov.uk](mailto:helpdesk@ssro.gov.uk) and we will direct you to a member of staff.

## 9. Key questions and answers regarding contract amendments

9.1 This section addresses commonly asked questions about contract amendments.

Question	Answer
<p>1. I have a QDC valued at £5m for the purpose of determining if it is a QDC. A recent scope change will result in the contract price falling below the £5m QDC threshold. Once the amendment goes through, will my QDC be outside the regime and its reporting requirements?</p>	<p>A contract's value is assessed once in determining if it is a QDC, when the contract is initially entered into, and is not re-assessed during the life of the contract - even after any pricing amendments. If your QDC was within scope of the regime when it was entered into, it will remain a QDC and the associated reporting requirements will continue to apply.</p> <p>The same approach applies to QSCs, except that regulation 63 allows a sub-contractor to notify the SSRO where it considers that the conditions in regulation 58(3) or (4) are no longer met, which the SSRO will either overrule or uphold. This is most likely to arise where a QSC supports multiple contracts and the proportion of obligations required to enable performance of the QDC(s) falls below 50% by value. Further information is available in the <a href="#">SSRO notice of cessations guidance</a>.</p>
<p>2. I've amended my competed contract in such a way that it has now become a qualifying defence contract (QDC) but I can't find anything in this guidance on how to price it?</p>	<p>When a contract that did not fall under the Single Source Contract Regulations (because, for example, it was originally competed) becomes a QDC by amendment, it may be priced using particular alternative pricing methods (e.g. the Previously agreed price method). Guidance can be found on the SSRO's website in section 5 of the <a href="#">Guidance on the alternative pricing of contracts</a>.</p>
<p>3. I am amending my contract to change from one default pricing method to another. Do I need to re-assess all my allowable costs when redetermining the price for the amended contract?</p>	<p>There is no explicit requirement in the legislation for allowable costs to be fully re-assessed when amending a contract. It would only be expected that costs subject to the amendment would be reviewed to the extent necessary to be satisfied that the requirements of allowable costs are met in a pricing amendment. The parties may consider they remain satisfied with the allowable costs agreed prior to the amendment and that these should continue to form part of the price following the amendment without further examination - although the MOD are entitled to request the contractor to revisit their costs and demonstrate that they remain allowable if they consider this necessary.</p>

Question	Answer
<p>4. What if I want to amend more than one element of allowable costs – Will this need multiple amendments? E.g. changing several sets of provisional rates to final agreed rates</p>	<p>Not necessarily. Several defined elements of allowable costs may be changed under a single pricing amendment. Section 6: Making more than one pricing amendment (above), covers the process that must be followed to combine multiple amendments into a single pricing amendment. However, if the parties wish to treat each change to allowable costs separately as a distinct pricing amendment (for example because they wish to apply different contract profit rates to each defined component of allowable costs being changed) then they may do so. The greater the number of contract profit rates and pricing methods within a contract, the more components it will contain, each with their own reporting requirements.</p>
<p>5. If I have a contract that was priced using the six-step contract profit rate process which applied prior to 1 April 2024 and I make an amendment to my allowable costs only, do I need to re-price to use the four-step process?</p>	<p>The contract profit rate determined using the six-step process will apply to the adjustment amount that is removed.</p> <p>The contract profit rate for the amendment must be priced using the current four-step process, which will be in force at the time of amendment.</p>
<p>6. I have a contract that was priced using the six-step process that contains a POCO adjustment. If I amend the contract, will the amendment need to adjust for costs associated with group profits (POCO) via allowable costs?</p>	<p>Yes, the amendment will need to follow the Regulations in force at the time of amendment, which include the requirement to make a POCO adjustment through allowable costs – now referred to as costs associated with group profits.</p> <p>The Allowable costs guidance (section 5, part I: Costs associated with group profits (POCO)), covers this in full.</p>
<p>7. I have a contractual obligation to purchase a specific volume of materials that also forms part of my estimated allowable costs. I have devised a more efficient process and do not need this volume of material to complete the contract. I wish to amend my contract to reflect this.</p> <p>Should I treat this as a change to a contractual requirement or a change to allowable costs?</p>	<p>If there is a specific provision of your contract which requires an amendment to be made to alter the volume of material purchased, this would be treated as a change to a contractual requirement pricing amendment. However, such arrangements that specify inputs are understood to be uncommon.</p> <p>If only the quantity and specification of the outputs was specified in the contract (which remains the same), rather than the purchase of a specific volume of materials, then the change in purchase volumes is unlikely to be a pricing amendment, and would instead represent a change in the allowable costs.</p>

Question	Answer
<p>8. We have a firm price contract in which my allowable costs are much lower than I had expected due to the actions of the MOD, and it looks like we will have excessive profits on it. We don't feel this is our fault, is there anything we can do before the contract ends to avoid a Final Price Adjustment (FPA)?</p>	<p>Discuss the matter with your contact at MOD as soon as possible. Assuming the cost under-run is unlikely to be rectified, the parties could agree to reflect this in an amendment to the contract to lower the price to reduce the excess profit. In this case the FPA threshold may not be met, but the amendment itself would lower the amount of profit on the contract. If the contract is between £5m and £50m, the Secretary of State (or delegated person) may also direct that no FPA should apply.</p>
<p>9. I am descoping my contract to remove a requirement. The price for the amendment is different to that at which the requirement was originally priced due to the existence of a new profit rate. Is this correct?</p>	<p>Yes, the Regulations require that any amendment uses the baseline profit rate (BPR) and capital servicing rates for the year in which the amendment is agreed.</p> <p>So it could be the case that by de-scoping a requirement the price falls by more or less than the amount which was originally priced into the contract.</p> <p>It should be noted however that a descoping amendment may be possible through an amendment to a defined element of allowable costs. Using this approach, the descoped allowable costs would retain their original CPR.</p>
<p>10. Can I include contractual clauses to vary the price of my contract without making a pricing amendment?</p>	<p>The price of a contract or component is redetermined in accordance with the Schedule to the Regulations when there has been a pricing amendment. This is a contract amendment that affects the original contract or component price. Where there has been no contract amendment (because, for example, the variation is provided for in the contractual clauses), then the Schedule will not apply.</p> <p>Parties should be aware when drafting and agreeing contract terms, however, that the provisions of the Act and Regulations will always prevail where there is an inconsistency between those provisions and any contractual clause.</p>